



COLORADO

**Colorado Water
Conservation Board**

Department of Natural Resources

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TO: Colorado Water Conservation Board Members

FROM: Linda Bassi, Section Chief and
Kaylea White, Senior Water Resource Specialist
Stream and Lake Protection Section

DATE: March 21, 2018

AGENDA ITEM: # 19b. Request for Authorization to Proceed to Trial (to defend CWCB stipulation if necessary) in Consolidated Case Nos. 14CW3097 and 14CW3098, Water Division 5, for the Application of Byers Peak Downhill Properties LLC and Byers Peak Properties LLC

This case is set for a 5-day trial beginning on April 2, 2018. The CWCB and the Applicant signed a stipulation on February 26, 2018. However, if unforeseen circumstances arise such that the case proceeds to trial despite CWCB's stipulated agreement, CWCB Staff may need to appear at trial to address issues raised in the stipulation.

Background:

In this case, the claimed plan for augmentation, appropriative rights of exchange, and underground water rights could injure the CWCB's instream flow water rights on the Colorado River, the Fraser River, Elk Creek, and St. Louis Creek. The CWCB filed a Statement of Opposition on November 25, 2014 to protect its instream flow water rights.

Staff Recommendation:

Although not required by ISF Rule 8j., Staff nonetheless recommends that the Board recognize the potential for trial participation and authorize Staff to proceed to trial to defend its stipulation, if necessary, or to negotiate a revised stipulation as appropriate.



